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In re Application of ZHANG et al :
U.S. Application No.: 10/575,948 :
PCT Application No.: PCT/CN03/01094 :
Int. Filing Date: 19 December 2003 : DECISION
Priority Date Claimed: 10 September 2003 :
Attorney Docket No.: 101402.57603US :
For: A METHOD OF PREPARING MEMANTINE :
HYDROCHLORIDE :

This is in response to applicant's "Petition to Revive Unintentionally Abandoned Application Under 37 CFR 1.137(b)" filed 13 April 2006.

BACKGROUND

On 19 December 2003, applicant filed international application PCT/CN03/01094, which claimed priority of an earlier China application filed 10 September 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 17 March 2005. The thirty-month period for paying the basic national fee in the United States expired on 10 March 2006.

International application PCT/CN03/01094 became abandoned as to the United States for failure to timely pay the basic national fee.

On 13 April 2006, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in submitting the requirements for entry into the U.S. National Stage was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 must be filed.



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